

Agency:	107 Health Care Authority
Decision Package Code/Title:	ML2-GA Increase Funding for AGO
Budget Period:	2015-17 Biennial Submittal
Budget Level:	ML2 – Maintenance Level 2

Recommendation Summary Text

The Health Care Authority (HCA) requests \$2,486,000 (\$1,294,000 GF-State) in the 2015-17 biennium to adjust the funding provided by the central service model to support the costs of legal services from the Attorney General’s Office (AGO) and to support additional legal costs due to an increase in lawsuits such as litigation with the Managed Care Organizations and Payment & Program Integrity.

Package Description

The HCA requests \$2,486,000 (\$1,294,000 GF-State) to adjust the central services model and manage new, significant litigation such as with the Managed Care Organizations and Payment & Program Integrity.

This proposal requests funding to support (1) the costs of the IAA between the HCA and the AGO for Medicaid legal services into the Authority’s base appropriation, which has been in place for the last two biennia; (2) the increased and ongoing costs of legal services which have resulted from the HCA implementation of Medicaid expansion pursuant to the federal Affordable Care Act and are included in the Medicaid legal services IAA; and (3) the historical and ongoing level of legal service costs which have been addressed for the last two biennia through an interagency agreement for the HCA legacy program legal services.

Prior to the 2011-13 biennium, the state’s Medicaid program was a part of the Department of Social and Health Services (DSHS). Effective July 1, 2011, the legislature merged the Medicaid program to the HCA as part of the consolidation of health care purchasing. The budget that was transferred from the DSHS to the HCA for the payment of legal services provided by the AGO was based upon a ratio of Medicaid FTEs in DSHS to total DSHS FTEs. This methodology did not consider the historical billings of the AGO for services related to the Medicaid program, including Medical Assistance, Medicaid Provider Audits, and Third Party Liability and resulted in an insufficient allocation. As a result, the HCA and the AGO entered into an IAA to provide adequate funding for those services. Subsequently, the state has implemented Medicaid expansion pursuant to the federal Affordable Care Act, increasing the level of legal services required.

Prior to the merger in the 2011-13 biennium, the HCA’s budget for regular legal services was already insufficient to cover the required level of services, and the HCA directly paid legal service billings in excess of its appropriation. Starting with the 2011-13 biennium and ongoing in the 13-15 biennium, this historical level of legal service usage has been addressed in IAAs which have been set in an amount to cover the excess above the regular appropriation. The AGO and the HCA now request that this historical level of legal service need be incorporated into the base appropriation for legal services.

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Pursuant to RCWs 43.10.030 and 43.10.040, the HCA is mandated to employ the AGO's legal services when party to litigation, thereby reducing the risk of costly settlements. This request will permit funding that will allow the HCA legal services to remain at the current levels, which already reflect significant increases in access to preventive legal advice as well as increases in litigation.

Questions related to this request should be directed to Cari Tikka at (360) 725-1181 or at Cari.Tikka@hca.wa.gov.

Fiscal Detail/Objects of Expenditure

	FY 2016	FY 2017	Total
1. Operating Expenditures:			
Fund 001-1 GF-State	\$ 647,000	\$ 647,000	\$ 1,294,000
Fund 001-C GF-Federal Medicaid Title XIX	\$ 596,000	\$ 596,000	\$ 1,192,000
Total	\$ 1,243,000	\$ 1,243,000	\$ 2,486,000
	FY 2016	FY 2017	Total
2. Staffing:			
Total FTEs	-	-	-
	FY 2016	FY 2017	Total
3. Objects of Expenditure:			
A - Salaries And Wages	\$ -	\$ -	\$ -
B - Employee Benefits	\$ -	\$ -	\$ -
C - Personal Service Contracts	\$ -	\$ -	\$ -
E - Goods And Services	\$ 1,243,000	\$ 1,243,000	\$ 2,486,000
G - Travel	\$ -	\$ -	\$ -
J - Capital Outlays	\$ -	\$ -	\$ -
N - Grants, Benefits & Client Services	\$ -	\$ -	\$ -
Other (specify) -	\$ -	\$ -	\$ -
Total	\$ 1,243,000	\$ 1,243,000	\$ 2,486,000
	FY 2016	FY 2017	Total
4. Revenue:			
Fund 001-C GF-Federal Medicaid Title XIX	\$ 596,000	\$ 596,000	\$ 1,192,000
Total	\$ 596,000	\$ 596,000	\$ 1,192,000

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Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

This request is critical to sustain the HCA legal services. Insufficient funding will have major fiscal implications for the state. The HCA will become extremely limited in the capacity to perform essential legal services and to prevail in these services.

With the approval of this request, the HCA will sustain the current level of legal services and will continue to achieve the current level of success demonstrated thus far.

Performance Measure Detail

Activity Inventory

H015 HCA Payments to Other Agencies

Is this decision package essential to implement a strategy identified in the agency's strategic plan?

The mission of the HCA is to provide high quality health care for the state's most vulnerable residents. The HCA cannot cost effectively oversee the state's two top health care purchasers, Washington Apple Health (Medicaid) and the Public Employees Benefits (PEB) programs, as well as other programs, without the legal services provided by the AGO.

Does this decision package provide essential support to one or more of the Governor's Results Washington priorities?

This request supports Governor Inslee's Results Washington Goal 5: Effective, Efficient and Accountable government – Customer Satisfaction, Cost Effective Government, and Transparent & Accountable. Within the HCA Division of Legal and Administrative Services, the Office of Legal Affairs provides valuable services to include all administrative hearings related to Title XIX funds and administrative hearings related to all public employee benefits. The legal services provided by the AGO helps the HCA reduce the risk of costly litigation and ensures cost-effective government.

What are the other important connections or impacts related to this proposal?

The HCA has no option but to retain the AGO's legal services in responding to lawsuits filed against the HCA. In doing so, other important activities will be de-prioritized, such as effectively administering coordinated health care, with quality results, at the lowest cost.

The AGO supports this request and has also submitted a decision package, and is concerned about the increased risk from lack of access to legal advice, including the resulting risks of successful legal challenges to agency rule adoptions and other program decisions. Rather than requesting further reductions, the HCA is seeking a higher level of the AGO's support in risk management efforts.

What alternatives were explored by the agency, and why was this alternative chosen?

There are no statutory, regulatory, or other changes or negotiation possibilities that would reduce the necessity of providing a legal defense in lawsuits initiated against the HCA.

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The HCA’s Office of Legal Affairs represents the state’s interest in ensuring that clients receive due process under the law while promoting the integrity of the HCA’s various programs, which includes protecting the appropriate use of taxpayer money for covered health services. The HCA’s legal mandate to employ the AGO’s legal services, to include preventive legal advice and litigation, is the most cost-effective way to address the significant increases in access to preventive legal advice as well as increases in litigation such as with the Managed Care Organizations and the Payment & Program Integrity.

What are the consequences of adopting this package?

If funded, the state will be able to cost-effectively obtain preventive legal advice, reduce litigation costs, and manage new significant lawsuits. This funding will prevent the need to de-prioritize other important activities, such as effectively administering coordinated health care, with quality results, at the lowest cost.

What is the relationship, if any, to the state capital budget?

None

What changes would be required to existing statutes, rules, or contracts, in to implement the change?

None

Expenditure and Revenue Calculations and Assumptions

Revenue Calculations and Assumptions:

The HCA assumes that the additional funding requested will be eligible for federal Medicaid match funding equal to 52 percent of the total cost.

Expenditure Calculations and Assumptions:

The HCA has experienced considerable growth of its Medicaid population. This request is to not only address the underfunding in the HCA’s base through the central service model, but also to address the increase in lawsuits and work related to litigation such as with the Managed Care Organizations and the Payment & Program Integrity. The AGO developed the billing projection based on standardized costs and compared the projected costs to the central service model to determine the funding gap.

Which costs, savings, and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

Distinction between one-time and ongoing costs:

All costs identified in this package are ongoing.

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Budget impacts in future biennia:

The AGO legal services will be required for the HCA into the foreseeable future. The funding needed for upcoming biennia will be determined based on prior expenditures and payment data related to the HCA cases.